

# Vorys, Sater, Seymour and Pease

A. I. VORYS 1856-1933  
L. F. SATER 1867-1935  
A. T. SEYMOUR 1873-1926  
E. L. PEASE 1873-1924

JAMES O. SEYMOUR  
ARTHUR I. VORYS  
JOHN C. ELAM  
RUSSELL P. HERROLD, JR.  
CHARLES D. MINOR  
EDGAR A. STRAUSE  
WILLIAM W. ELLIS, JR.  
RICHARD G. ISON  
JAMES P. KENNEDY  
HERBERT R. BROWN  
EDWARD A. SCHRAG, JR.  
COLBORN M. ADDISON  
LESTER S. LASH  
ROGER A. YURCHUCK  
JERRY D. JORDAN  
JACOB E. DAVIS II  
CHARLES F. DUGAN II

DUKE W. THOMAS  
RICHARD R. STEDMAN  
SHELDON A. TAFT  
THOMAS M. TAGGART  
JAMES B. CUSHMAN  
ROBERT W. WERTH  
KENNETH D. BECK  
GEORGE L. JENKINS  
JAMES H. GROSS  
PHILIP W. STICHTER  
JAMES R. BEATLEY, JR.  
SCOTT N. WHITLOCK  
LAWRENCE L. FISHER  
THOMAS B. RIDGLEY  
ROBERT W. MINOR  
JOHN W. HOBBERG  
JAMES P. FRIEDT  
PHILIP C. JOHNSTON  
WILLIAM D. KLOSS  
MICHAEL G. LONG  
THOMAS M. TAPPY  
ROBERT F. WEAVER, JR.  
DAVID S. CUPPS  
JAMES H. HEDDEN

DANIEL H. SCHOEDINGER  
PHILLIP L. NUNNALLY  
SUSAN BROWN MOORE  
JOSEPH D. LONARDO  
MICHAEL W. DONALDSON  
MICHAEL J. CANTER  
LEON M. MCCORMICK, JR.  
RUSSELL M. GERTSMAN  
ALAN T. RADNOR  
MARY ELLEN FAIRFIELD  
C. WILLIAM O'NEILL  
ROBERT E. TAIT  
CHARLES S. DEROUSIE  
GEORGE N. COREY  
FREDERICK R. REED  
G. ROSS BRIDGMAN  
W. JONATHAN AIREY  
STEVEN J. MCCOY  
PHILIP A. BROWN  
STEPHEN R. BUCHENROTH  
JAMES M. BALL  
JOHN K. KELLER  
DAVID C. PATTERSON  
LANCE W. SCHNEIER

ROBERT A. MINOR  
RONALD L. ROWLAND  
SUZANNE K. RICHARDS  
LARRY R. THOMPSON  
JOHN C. BEELER  
DONALD J. SHULLER  
GARY E. DAVIS  
F. DANIEL BALMERT  
JONATHAN M. NORMAN  
SUSAN J. INSLEY  
JOHN TIMOTHY YOUNG  
MARK T. DYKSTRA  
SANDRA J. ANDERSON  
PAUL J. MANAFORT  
DANNY L. VOGUS  
JAMES A. YANO  
VIRGINIA M. TRETHEWEY  
NANCY L. DANISON  
RICHARD H. UNDERWOOD  
MICHAEL J. HEALEY  
IVORY D. FOREMAN  
BRUCE L. INGRAM  
TODD N. WADE  
R. MARK HALLIGAN

LAURA G. KUYKENDALL  
ERIC R. GILBERTSON  
JAMES L. TODD  
BRUCE R. HENKE  
OWEN B. KATZMAN  
JOSEPH V. LANE, JR.  
RAYMOND D. ANDERSON  
GERALD R. FERGUSON  
GEORGE N. VORYS  
ROGER E. LAUTZENHISER  
GILBERT J. NEGRETE, JR.  
LINDA HAYMAN  
J. SCOTT JAMIESON  
JACINTHA KRAFT BALCH  
JAMES E. PHILLIPS

ROBERT E. LEACH  
M. PETER McPHERSON  
CHARLES A. WEBB  
PHILIP R. HOCHBERG  
COUNSEL

NOT ADMITTED IN OHIO

52 East Gay Street, P.O. Box 1008  
Columbus, Ohio 43216

Telephone (614) 464-6400  
Telecopier (614) 464-6350  
Rapidfax (614) 464-6453  
Cable Vorysater

Suite 800 South  
1800 M Street, N.W.  
Washington, D.C. 20036  
(202) 296-2929

Writer's Direct Dial Number

January 29, 1980

Ms. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Room 2215  
Washington, DC 20423

RECORDATION NO. 11205-A Filed 1425

JAN 29 1980 - 1 35 PM

INTERSTATE COMMERCE COMMISSION

No. 0-029A071

Date JAN 29 1980

Fee \$ 10.00

ICC Washington, D. C.

RE: Amendment of Mortgage of  
Railroad Rolling Stock

Dear Ms. Mergenovich:

The undersigned hereby files an original and two counterparts of an Amendment of Mortgage of Railroad Rolling Stock and requests that the Amendment be recorded with the Commission pursuant to 49 U.S.C. 11303(a). The original mortgage was dated February 20, 1979, and recorded in compliance with the provisions of 49 U.S.C. 11303(a), on March 16, 1979, at 2:15 p.m. and assigned recordation number 10208.

The names and addresses of the parties to the transaction are as follows:

South-East Coal Company  
Irvin, Kentucky 40336

South-East Coal Sales Company  
88 East Broad Street  
Columbus, Ohio 43215

Bank One of Columbus, NA, Agent  
(formerly The City National Bank &  
Trust Company of Columbus, Agent)  
100 East Broad Street  
Columbus, Ohio 43215

RECEIVED  
JAN 29 / 31 PM '80  
FEE OPERATION BR.  
I.C.C.

*Cumley*  
*Owen*  
*Katzman*

Bank One of Columbus, NA  
(formerly The City National Bank  
& Trust Company of Columbus

Citizens Fidelity Bank and Trust Company

First National Bank of Louisville

Continental Illinois Bank and  
Trust Company of Chicago

Pittsburgh National Bank

c/o Bank One of Columbus, NA, Agent  
100 East Broad Street  
Columbus, Ohio 43215

Included in the property covered by the aforesaid mortgage or deed of trust are rolling stock used or intended for use in connection with interstate commerce, or interests therein, owned by South-East Coal Company at the date of said mortgage or thereafter acquired by it or its successors as owners of the water carriers or the lines of railway covered by said mortgage.

A check in the amount of \$10 in payment of the recordation fee is enclosed. Upon recordation, the Amendment of Mortgage of Railroad Rolling Stock and appropriate accompanying documents should be returned to:

Owen B. Katzman, Esq.  
Vorys, Sater, Seymour & Pease  
1800 M Street, N.W.  
Suite 800 - South  
Washington, DC 20036

Sincerely yours,



Owen B. Katzman

al

enc.

cc: L. M. McCorkle, Jr., Esq.

JAN 29 1980 -1 35 PM

AMENDMENT OF MORTGAGE  
OF RAILROAD ROLLING STOCK  
(Including Assignment of Rights) INTERSTATE COMMERCE COMMISSION

SOUTH-EAST COAL COMPANY, a corporation organized and existing under the laws of the Commonwealth of Kentucky, located at Irvine (mailing, P. O. Box 332), Kentucky 40336 ("Coal Co."), SOUTH-EAST COAL SALES COMPANY, a corporation organized and existing under the laws of the Commonwealth of Kentucky, located at 88 East Broad Street, Columbus, Ohio 43215 ("Sales Co."), BANK ONE OF COLUMBUS, NA, formerly THE CITY NATIONAL BANK & TRUST COMPANY OF COLUMBUS ("BANK ONE"), a national banking association organized and existing under the laws of the United States, located at and with a mailing address of 100 East Broad Street, Columbus, Ohio 43215, PITTSBURGH NATIONAL BANK ("PNB"), a national banking association organized and existing under the laws of the United States, with an office at and mailing address of Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania 15222, CITIZENS FIDELITY BANK AND TRUST COMPANY ("CFB"), a banking company organized and existing under the laws of the Commonwealth of Kentucky, with a mailing address of P. O. Box 33000, Louisville, Kentucky 40232, FIRST NATIONAL BANK OF LOUISVILLE ("FNB"), a national banking association organized and existing under the laws of the United States, with a mailing address of P. O. Box 36030, Louisville, Kentucky 40232, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("CINB"), a national banking association organized

and existing under the laws of the United States, with a mailing address of 231 South LaSalle Street, Chicago, Illinois 60693, Attention: Mining Division (BANK ONE, PNB, CFB, FNB and CINB being hereinafter referred to collectively as the "Banks") and BANK ONE, not in its individual capacity but as agent for the Banks hereunder (the "Agent"), in consideration of the mutual covenants and agreements contained herein, hereby Recite and Agree as follows:

#### Recitals

1. Coal Co., as Mortgagor, and Sales Co., as Guarantor, and the Banks (not including CINB), as Mortgagee, executed a Mortgage of Railroad Rolling Stock and Guaranty (collectively, the "Mortgage"), dated as of February 20, 1979, and recorded in compliance with the provisions of the Interstate Commerce Act, 49 U.S.C. § 11303(a), on March 16, 1979, at 2:15 P.M. and assigned recordation number 10208.

2. Pursuant to agreement under which one of the Banks, PNB, is being replaced as a Bank and Mortgagee by CINB, the parties hereto desire that the replacement be reflected by Amendment of the Mortgage.

#### Agreement

3. The Mortgage is hereby amended by substituting therein "CINB" for "PNB."

4. PNB, acting through the Agent, hereby assigns to CINB all security in property described in and all rights under the Mortgage, according to the terms thereof. This Amendment and Assignment is for the purpose of continuation of security interests.

5. The Banks, the Agent, the Mortgagor, the Guarantor, and each of them, hereby consent to and acknowledge the foregoing Amendment and Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized officers as of the 25<sup>th</sup> day of Jan, 1980.

BANK ONE OF COLUMBUS, NA  
(formerly THE CITY NATIONAL BANK  
& TRUST COMPANY OF COLUMBUS),  
Columbus, Ohio

By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

A G E N T

BANK ONE OF COLUMBUS, NA

By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

PITTSBURGH NATIONAL BANK

By BANK ONE OF COLUMBUS, NA, Agent  
By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

CITIZENS FIDELITY BANK AND TRUST  
COMPANY

By BANK ONE OF COLUMBUS, NA, Agent  
By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

THE FIRST NATIONAL BANK OF  
LOUISVILLE

By BANK ONE OF COLUMBUS, NA, Agent  
By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO

By BANK ONE OF COLUMBUS, NA, Agent  
By Philip C. Parker  
Philip C. Parker  
Assistant Vice President

M O R T G A G E E

SOUTH-EAST COAL COMPANY

By Thomas E. Polite  
Its Vice President

(SEAL)

M O R T G A G O R

SOUTH-EAST COAL SALES COMPANY

By Thomas E. Polite  
Its Treasurer

(SEAL)

G U A R A N T O R

All parties' executions  
signed and acknowledged  
in the presence of:

Peggy A. Barber  
J. B. Waddell

STATE OF OHIO,  
COUNTY OF FRANKLIN, ss:

On this 25th day of January, 1980, before me personally appeared Philip C. Parker, to me personally known, who being by me duly sworn, says that he is the Assistant Vice President of Bank One of Columbus, NA, that said instrument was signed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association for the purposes therein stated.

(SEAL)

Peggy A. Rawlins (Barker)  
Notary Public

My commission expires PEGGY A. RAWLINS; Notary Public  
Franklin County, Ohio  
My Commission Expires Mar., 27, 1982

STATE OF OHIO,  
COUNTY OF FRANKLIN, ss:

On this 25th day of January, 1980, before me personally appeared Thomas E. Poletti, to me personally known, who being by me duly sworn, says that he is the Vice President of South-East Coal Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation for the purposes therein stated.

(SEAL)

Peggy A. Rawlins (Barker)  
Notary Public

My commission expires PEGGY A. RAWLINS; Notary Public  
Franklin County, Ohio  
My Commission Expires Mar., 27, 1982

STATE OF OHIO,  
COUNTY OF FRANKLIN, ss:

On this 25th day of January, 1980, before me personally appeared Thomas J. James, to me personally known, who being by me duly sworn, says that he is the Treasurer of South-East Coal Sales Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation for the purposes therein stated.

(SEAL)

Peggy A. Rawlins (Barber)  
Notary Public

My commission expires PEGGY A. RAWLINS, Notary Public  
Franklin County, Ohio  
My Commission Expires Mar., 27, 1982



**Interstate Commerce Commission**

**Washington, D.C. 20423**

**1/29/80**

**OFFICE OF THE SECRETARY**

**Owen B. Katzman, Esq.  
Vorys, Sater, Seymour & Pease  
1800 M. Street, N.W.  
Suite 800-South  
Washington, D.C. 20036**

Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **1/29/80** at **1:35pm**, and assigned re-recording number(s). **10208-A**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)